

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SUSAN FALCON,

Plaintiff,

vs

6:07-CV-377

AFFILIATED COMPUTER SERVICES, INC.,

Defendants.

APPEARANCES:

OF COUNSEL:

LEGAL SERVICES OF CENTRAL
NEW YORK - SYRACUSE
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CHAIM J. JAFFE, ESQ.
DAVID C. TEMES, ESQ.

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff, Susan Falcon, has brought this action against her former employer, defendant Affiliated Computer Services, Inc., under the American with Disabilities Act, 42 U.S.C. § 12101, and New York State Human Rights Law, N.Y. Exec. Law § 290, et seq., for the alleged failure and refusal to accommodate her disability. (Doc. No. 1). The defendant now moves pursuant to 9 U.S.C. § 4, to (1) compel arbitration in compliance with the defendant's Dispute Resolution Program ("DRP"); (2) dismiss the complaint, or in the

alternative, pursuant to 9 U.S.C. § 3, stay this action pending arbitration; and (3) costs and attorney fees. (Doc. No. 8). Plaintiff opposes. (Doc. Nos. 10 & 11). Defendant replied. (Doc. No. 12).

The motion was taken on submit without oral argument.

The Federal Arbitration Act strongly favors the enforcement of arbitration agreements. The exception is if the arbitration agreement is either procedurally or substantially unconscionable. A review of all submissions demonstrates that the arbitration provisions of the DRP are not. The particular facts and circumstances of plaintiff's claims against the defendant, and the facts and circumstances of the execution and application of the DRP show that the arbitration agreement is valid and enforceable. The defendant's motion will be granted.

Further, a review of the submissions demonstrates that plaintiff's opposition to this motion was not in bad faith, unreasonable, frivolous, meritless, or vexatious. No costs and attorney fees will be granted.

Therefore, it is

ORDERED, that

1. Defendant's motion to compel arbitration and dismiss the complaint is
GRANTED;

2. Defendant's motion for costs and attorney fees is DENIED;

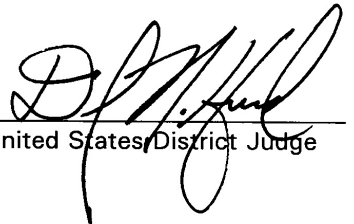
3. The plaintiff is directed to submit her claims to arbitration under the DRP; and

4. The complaint is DISMISSED.

The Clerk is directed to enter judgment accordingly.

IT IS SO ORDERED.

Dated: August 30, 2007
Utica, New York.


United States District Judge